

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MICHAEL L. FERGUSON,
MYRL C. JEFFCOAT and DEBORAH SMITH,
Individually and as Representatives of a Class of
Similarly Situated Plan Participants and
Beneficiaries, and on behalf of the
DST SYSTEMS, INC. 401(K) PROFIT
SHARING PLAN,

Plaintiffs,

v.

RUANE CUNNIFF & GOLDFARB INC.;
DST SYSTEMS, INC.; THE ADVISORY
COMMITTEE OF THE DST SYSTEMS, INC.
401(K) PROFIT SHARING PLAN and THE
COMPENSATION COMMITTEE OF THE
BOARD OF DIRECTORS OF DST SYSTEMS,
INC.,

Defendants.

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Plaintiffs, Michael L. Ferguson, Myrl C. Jeffcoat and Deborah Smith (collectively, “Plaintiffs”), respectfully submit this Motion for Class Certification (“Motion”) and hereby move this Court, pursuant to Federal Rule of Civil Procedure 23, for an Order certifying this action (“Action”) as a class action, appointing Plaintiffs as representatives of the proposed class defined below (“Class”), appointing Plaintiffs’ counsel as counsel for the Class and providing for notice to the Class. A copy of the [Proposed] Order granting this Motion is attached as Exhibit “A.”

For the reasons explained in the accompanying Memorandum of Law and other supporting papers, Plaintiffs respectfully submit that the Court should certify the following proposed class (“Class”):

All participants and beneficiaries of the DST Systems, Inc. 401(k) Profit Sharing Plan from March 14, 2010 through July 31, 2016 (the “Class Period”), excluding the Defendants and all other individuals who are or have ever been a member of the Advisory Committee of the DST Systems, Inc. 401(k) Profit Sharing Plan or the Compensation Committee of the Board of Directors of DST Systems, Inc. or otherwise served as fiduciaries of the DST Plan during the Class Period.

In addition, for the reasons stated in the accompanying Memorandum of Law and papers, including declarations of Plaintiffs’ counsel, Plaintiffs also respectfully submit that they should be appointed as representatives of the Class and that their attorneys should be appointed as counsel for the Class. Finally, provided that the Court grants certification of the Class, Plaintiffs submit that the Court should require the parties to meet and confer and submit a joint proposal (or, in the alternative, their respective proposals) to provide notice to the Class members regarding certification of the Class within fourteen (14) days of the date of any order granting class certification. *See, e.g., Bitzko v. Weltman, Weinberg & Reis Co., LPA*, No. 1:17-CV-00458 (BKS/DJS), 2019 WL 4602329, at *20 (N.D.N.Y. Sept. 23, 2019)(granting motion for class certification and instructing that “the parties are directed to meet and confer regarding a proposed class notice and submit a proposed notice to the Court by October 7, 2019”).

Plaintiffs do not request oral argument at this time.¹ If the Court determines that oral argument is necessary or would be helpful, Plaintiffs stand ready to appear at the Court’s convenience, whether telephonically or otherwise, to present argument in support of this Motion.

¹Defendants, DST Systems, Inc., the Advisory Committee of the DST Systems, Inc. 401(k) Profit Sharing Plan and the Compensation Committee of the Board of Directors of DST Systems, Inc. (the “DST Defendants”) do not oppose this Motion.

Dated: April 10, 2020

Respectfully submitted,

SHEPHERD, FINKELMAN, MILLER
& SHAH, LLP

/s/ Laurie Rubinow (LR 6637)

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2020, I caused a true and correct copy of Plaintiffs' Motion for Class Certification to be filed through the Court's CM/ECF system and thereby served on all counsel of record.

/s/ Laurie Rubinow (LR 6637)

Laurie Rubinow
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